

**REMARKS**

Claims 1-10 and 13-15 are pending in the application.

The examiner had rejected claims 1, 4-10, and 13-15 under 35 U.S.C. 102(a) as being anticipated by Gardner (US 6,243,476). The examiner further indicated that claims 2 and 3 were objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim. Applicants thank the examiner for this indication of allowable subject matter.

Applicants further gratefully acknowledge the courtesy and cooperation of the examiner in setting up and conducting a telephonic interview in this matter with the undersigned. The interview took place on August 3, 2005. Claim 1 and the disclosures of reference Gardner were discussed. No agreement as to the allow ability of the claim was reached during the interview but agreement was reached to consider the arguments presented in written form.

**Claim Rejections Under 35 U.S.C. §102**

The examiner had rejected claims 1, 4-10, and 13-15 under 35 U.S.C. 102(a) as being anticipated by Gardner (US 6,243,476). For at least the reasons set forth below, applicants disagree.

Gardner's shelving filter is used to implement a high frequency gain modification to the synthesized HRTF's to accommodate the rotation of the listener's head (col. 17, lines 1-7; lines 30-35). In Gardner's second embodiment, it is these gain adjustments that are used to maintain the appropriate power ratios for high frequencies to compensate for either variations in the listener's head angle and/or sound panning. Gardner notes that this is done because as sound is panned to a particular speaker, the power panning is violated if power does not emanate from the directionally appropriate speaker. (col. 3, lines 10-20). Gardner appears to suggest therefore that the gain to one ear will be increased by a head rotation, the particular ear depending upon which one is rotated closer to the source. Accordingly, it is inherent in Gardner's teachings that a gain will be applied to at least

one channel by Gardner's shelving filter to accommodate the listener's head rotation to preserve the power panning. This gain to at least one channel, even if direction dependant, in turn means that the method in Gardner cannot teach HF cut filtering in both channels as required by claim 1. Applicants therefore submit that Gardner fails to teach or suggest all of the elements of claim 1, including augmenting the HRTF filtering of the signal in both channels using high frequency (HF) cut filter means, the filter characteristics of the HF cut filter means being settable according to the given direction of the virtual sound source.

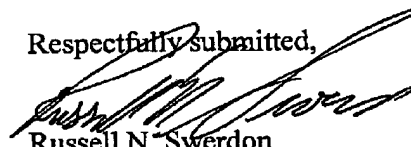
Independent claims 13-15 are submitted to be allowable for the same reasons as discussed above with respect to claim 1. Claims 2-10 depend from claim 1 and are submitted to be allowable for at least their dependencies from an allowable claim. Moreover, the dependent claims recite additional limitations, and are therefore allowable for these reasons as well. Further discussion of these distinctions is believed unnecessary in light of the distinctions discussed above relative to the independent claims.

The arguments presented in the remarks section of this amendment are believed to provide an adequate response for asserting the allowability of all of the presently pending claims in this present application. To the extent that the applicant has not addressed some issues raised by the Examiner in the Office Action, applicant believes that such unaddressed issues do not require a response at the present time since allowability of the claims has been asserted by the applicant based upon other grounds. However, applicant's lack of response to any of the issues raised by the Examiner does not constitute an admission by the applicant as to the accuracy of the Examiner's assertions with respect to such issues. Applicant specifically reserves the right to respond to such issues at a later time during the prosecution of the present application, should such a need arise.

**Conclusion**

Accordingly, it is submitted that all issues in the Office Action have been addressed, and withdrawal of the rejections is respectfully requested. Applicants believe that this application is in condition for allowance, and respectfully request a prompt passage to issuance. If the Examiner believes that a telephone conference would expedite the prosecution of this application, he is invited to contact the Applicants' undersigned attorney at the telephone number set out below.

Respectfully submitted,



Russell N. Swerdon  
Registration No. 36,943

Creative Labs, Inc.  
1901 McCarthy Boulevard  
Milpitas, CA 95035  
Phone: 408-428-6600